Remarks

Reconsideration of this patent application is respectfully requested, particularly as herein amended.

Before turning to the merits of the Office Action of May 16, 2008, it has been noted that the Office Action acknowledges applicant's claim of priority for this matter, and acknowledges consideration of the Information Disclosure Statement which was filed in this matter on June 26, 2006. The undersigned thanks the Examiner for these acknowledgements.

Turning now to the merits of the Office Action of May 16, 2008, it has been noted that the requirement for restriction presented in the Office Action mailed December 7, 2007, has been made final. It has further been noted, however, that applicant's traversal of the requirement for restriction was not found to be persuasive "because the rolling up station and speed controller are not required for patentability with respect to the claims of GROUP I". This would suggest that the reconsideration of the requirement for restriction was based on a "restriction" standard and not a "unity of invention" standard.

As previously indicated, this Patent Application was filed under the provisions of 35 U.S.C. §371, as a national stage application deriving from International Application No. PCT/FR04/01973, and as a consequence, a "unity of invention" standard is correctly applied to the claims of this Patent Application under PCT Rule 13 and 37 C.F.R. §1.499. For

this reason, the correct standard to apply should have been whether or not "there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features" and not whether elements included in one grouping of claims are required for patentability with respect to another grouping of claims.

Consequently, it is submitted that the requirement for restriction presented in the Office Action of December 7, 2007, was properly withdrawn and was not properly made final. It is further noted that the examination of claims 25 to 30 (and newly presented claims 35 and 36) in this Patent Application, pursuant to the provisions of 37 C.F.R. §1.475(b)(4), and the examination of claims 31 to 34 in this Patent Application, pursuant to the provisions of 37 C.F.R. §1.475(b)(5), has not been addressed. Applicant, therefore, reserves the right to petition for review of the requirement for restriction presented in the Office Action of December 7, 2007, pursuant to 37 C.F.R. §1.144.

Claims 15, 16, 18 and 20 to 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 3,055,645 (Anderson et al.), taking the position that Anderson et al. "[apply] a metal peroxide... to the fabric so that the fabric is impregnated with the metal peroxide, while leaving the fabric free and without tension in the selected machine direction, for a period of time necessary for swelling... of the fibers oriented in the selected machine direction and for modification of the fibers".

Firstly, applicant advises that use of the terminology "machine direction" in the claims is appropriately replaced with the terminology "fabric direction" to more clearly define the subject matter which is being claimed. The claims presented in this Patent Application have, therefore, been accordingly amended. It is submitted that such clarification more clearly distinguishes applicant's claims from the disclosure of Anderson et al.

Secondly, reference is made to column 1 of Anderson et al., which states from line 49 to line 52 that:

> Thus, cotton fabrics are bleached to a high degree of brightness while at the same time fibrous strength in the fabric bleached is substantially unaffected. (emphasis added)

It is, therefore, submitted that Anderson et al. do not disclose the production of a fabric having elasticity in a given fabric direction, either a warp or a weft. It is further submitted that the person of ordinary skill in the art at the time the present invention was made would not have considered referring to the disclosure of Anderson et al. for purposes of developing a method, a machine, or a product including threads in a fabric direction having characteristics which are to be "modified" so that the threads "assume a spring shape, after shrinkage", as is recited in applicant's claims.

Rather, it is submitted that the person of ordinary skill in the art at the time the present invention was made would not have referred to the disclosure of Anderson et al. in view of

the statement made at lines 49 to 52 of column 1, and would not have known that the disclosure of Anderson et al. would produce a fabric including threads in a selected fabric direction having characteristics which are "modified" so that the threads "assume a spring shape, after shrinkage", as is recited in applicant's claims.

Thirdly, applicant's claims (including new claims 35 and 36, which have been presented relative to withdrawn claim 25) have been amended to indicate that during treatment the fabric is "free and without tension in the first fabric direction... while placing the fabric under tension in the second fabric direction" (i.e., with the warp and weft being interchangeable), to more clearly recite operations corresponding to description which was originally supplied in the specification for this Patent Application, for example, at page 6, lines 25 to 28.

Even if the position is taken that the person of ordinary skill in the art at the time applicant's invention was made would have referred to the disclosure of Anderson et al., and that Anderson et al. would have disclosed the modification of threads of a fabric in a first fabric direction so that the threads would assume a spring shape after shrinkage to the person of ordinary skill in the art at the time applicant's invention was made, the person of ordinary skill in the art at the time applicant's invention was made would not have known, from the disclosure of Anderson et al., to also place the fabric under tension in the second fabric direction, in accordance with

applicant's claims.

It is, therefore, submitted that Anderson et al. would not have disclosed the improvements recited in applicant's claims to the person of ordinary skill in the art at the time the present invention was made, and that applicant's claims are not properly subject to rejection under 35 U.S.C. §103(a) over Anderson et al.

Claims 17 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over a proposed combination of Anderson et al. and DE 2 300 724 (W.R. Grace & Co.). The Grace disclosure relates to a cold setting insulating material consisting of vermiculite and perlite and, therefore, does not relate to a fabric. As a consequence, the person of ordinary skill in the art at the time the present invention was made would have had no reason to consider the Grace disclosure for guidance related to the manufacture of a fabric, particularly a fabric having threads which are to be "modified" so that the threads "assume a spring shape, after shrinkage", as is recited in applicant's claims. Rather, it is submitted that the proposed reference to the Grace disclosure would constitute an impermissible hindsight reconstruction of applicant's claimed improvements.

Moreover, and even if the position is taken that the person of ordinary skill in the art at the time the present invention was made would have had reason to consider the Grace disclosure for guidance related to the manufacture of a fabric having threads which are to be "modified" so that the threads "assume a spring shape, after shrinkage", it is submitted that

the combined disclosures of Anderson et al. and Grace would not have disclosed the improvements recited in applicant's claims. For example, the combined disclosures of Anderson et al. and Grace would not have led the person of ordinary skill in the art at the time applicant's invention was made to modify threads of a fabric in a first fabric direction so that the threads would assume a spring shape after shrinkage, or to do so by leaving the fabric free and without tension in the first fabric direction, in which modification of the fibers of the fabric is to take place, while placing the fabric under tension in the second fabric direction, in accordance with applicant's claims.

It is, therefore, submitted that the person of ordinary skill in the art at the time the present invention was made would not have considered the proposed combination of the disclosures of Anderson et al. and Grace, and that even if considered, the proposed combination of Anderson et al. and Grace would not have disclosed the improvements recited in applicant's claims to the person of ordinary skill in the art at the time the present invention was made. As a consequence, it is submitted that applicant's claims are not properly subject to rejection under 35 U.S.C. §103(a) over the proposed combination of Anderson et al. and Grace.

It is further noted that the Office Action of May 16, 2008, does not include any rejection of dependent claim 19, which does not appear to have been addressed. An indication of the disposition of claim 19 is, therefore, respectfully requested.

In view of the foregoing, it is submitted that this Patent Application is in condition for allowance and corresponding action is earnestly solicited.

Respectfully submitted,

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on: November 10, 2008 .

Date: 11/10/08 Gary M. Cohen, Esq.